



PLANNING COMMISSION STAFF REPORT JANUARY 10, 2013

Project:	THERMO FISHER SCIENTIFIC (PLN2012-00224/PLN2013-00081)
Proposal:	To consider an Environmental Impact Analysis and Preliminary Grading Plan for a new 275,000-square-foot industrial design and manufacturing facility on a vacant 22.3-acre parcel.
Recommendation:	Approve, based on findings and subject to conditions.
Location:	45600 Kato Road in the South Fremont Community Plan Area APNs: 519-0850-105-04 & 519-0850-105-05 (See aerial photo below)
Land Area:	22.3 acres
People:	GEIS Companies (Jeff Martin), on behalf of Thermo Fisher Scientific, Applicant/Architect Landtech Consultants (Kamal Obeid, P.E.), Civil Engineer Stephen Kowalski, Staff Planner (510) 494-4532; skowalski@fremont.gov
Environmental Review:	A Mitigated Negative Declaration has been prepared and circulated for this project in accordance with the requirements of the California Environmental Quality Act (CEQA).
General Plan:	Industrial – General
Current Zoning:	General Industrial; General Industrial/Flood Combining District

EXECUTIVE SUMMARY

The applicant, on behalf of Thermo Fisher Scientific, proposes to construct a 275,000-square-foot industrial design and manufacturing facility on a vacant 22.3-acre parcel located south of Tesla Motors. The proposed facility would contain 169,250 square feet of manufacturing plant floor area, 53,250 square feet of office and research and development (R&D) space, and 52,500 square feet of ancillary storage space. The project would require 113,000 cubic yards of cut and 98,350 cubic yards of fill, for a total grading quantity of 211,350 cubic yards. Pursuant to Fremont Municipal Code (FMC) Section 8-4108, any project involving total grading in excess of 1,000 cubic yards requires the approval of a Preliminary Grading Plan by the Planning Commission. In this case, the Commission is also charged with adopting an environmental document which addresses the potentially significant impacts that the entire project, including the proposed facility itself as well as the Preliminary Grading Plan, could have on the environment. Staff recommends that the Commission adopt a Mitigated Negative Declaration as shown in Exhibit "A" and approve the Preliminary Grading Plan as shown in Exhibit "B," based on the findings and subject to the conditions contained in Exhibit "C."

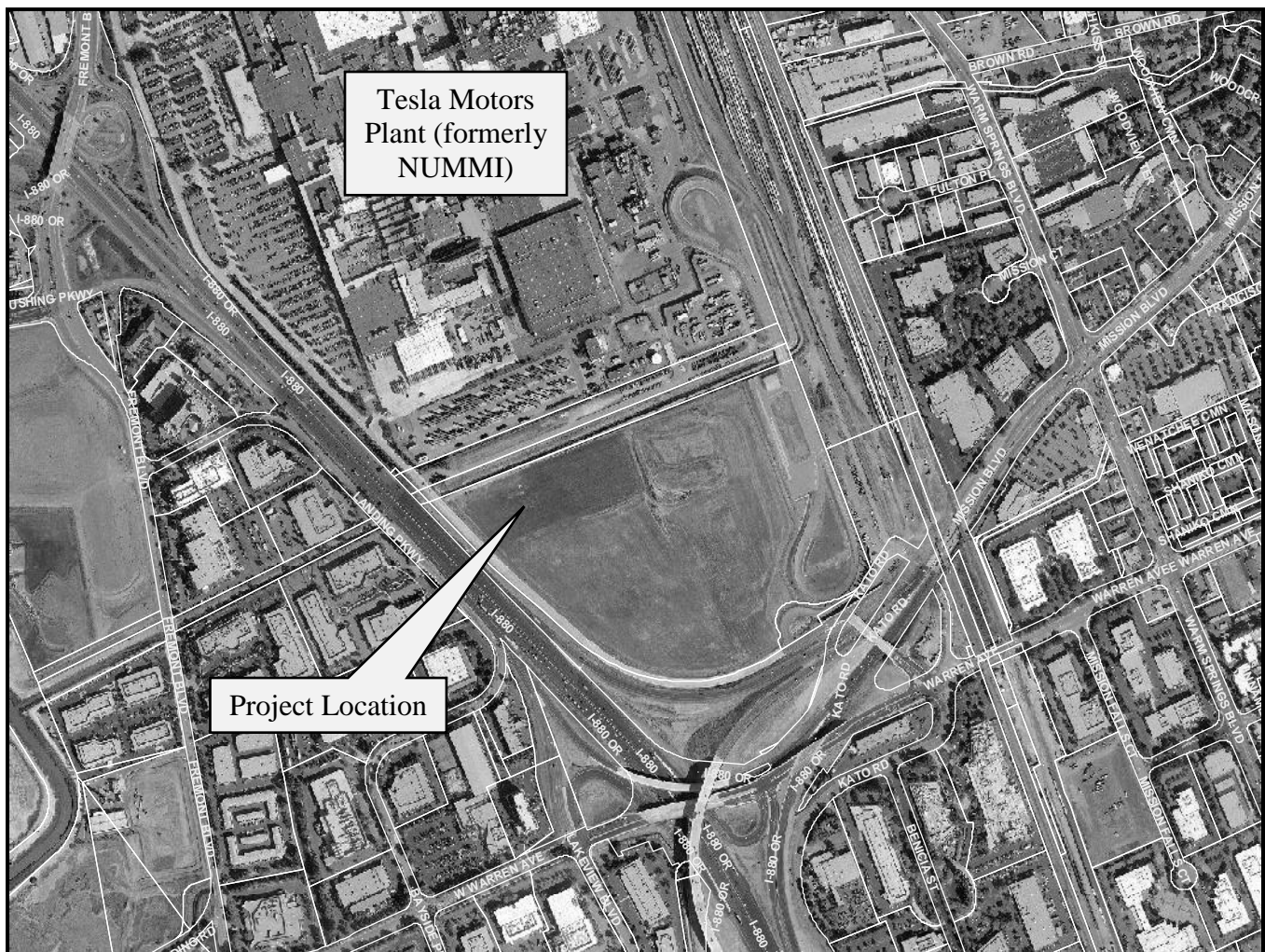


Figure 1: Aerial Photo (2009) of Project Site and Surrounding Area.



SURROUNDING LAND USES & ZONING:

North: Flood control channel, automobile manufacturing plant beyond; G-I & G-I(F) zoning districts

South: Vacant industrial land, freeway interchange beyond; G-I zoning district, ROW zoning district beyond

East: Vacant industrial land, railroad right-of-way beyond; G-I zoning district

West: Interstate 880 freeway, industrial uses beyond; ROW zoning district, I-R zoning district beyond

BACKGROUND AND PREVIOUS ACTIONS

The subject property has never been developed and has been used historically for agricultural purposes, most recently for the growing of alfalfa for livestock feed. A local farmer maintains a year-to-year leasehold over all of the land between the adjacent Tesla Motors property and Mission Boulevard to the south which allows him to grow alfalfa on the land each year. A large, man-made mound consisting of old spoils taken from the Tesla Motors property when it was owned and operated by General Motors rises roughly 10 feet over the rest of the terrain, but no buildings have ever occupied the site.

On June 19, 2012, the Planning Manager approved a Lot Line Adjustment (PLN2012-00220) which created the subject parcel from a larger parcel that was previously owned by Union Pacific Railroad. This Lot Line Adjustment also resulted in the creation of three other developable parcels between the Tesla Motors property and Mission Boulevard, but the other three parcels are not involved in this project and have not been proposed for development as of yet.

PROCEDURE FOR TONIGHT'S HEARING

At tonight's hearing, the Planning Commission is charged with completing the following tasks:

1. Consider adoption of a Mitigated Negative Declaration and Mitigation Monitoring Program for the Environmental Impact Analysis for the proposed project, including both the construction and operation of the proposed facility as well as the grading work, in accordance with CEQA; and
2. Consider the request for approval of a Preliminary Grading Plan, based on the findings prescribed by FMC Section 8-4109, subject to the conditions contained in Exhibit "B."

PROJECT DESCRIPTION

The applicant is proposing to construct a 275,000-square-foot industrial design and manufacturing facility on a vacant 22.3-acre parcel located south of Tesla Motors. The proposed facility floor plan would contain 169,250 square feet of manufacturing plant floor area, 53,250 square feet of office and R&D space, and 52,500 square feet of ancillary storage space. The facility would also include a \pm 5,000-square-foot mechanical equipment enclosure along the north side of the property adjacent to the facility's proposed loading docks. The project would have a floor area ratio (FAR) of 28 percent where 35 percent is the maximum allowed within the General Industrial (G-I) zoning district.

The facility would consist of a single-story floor plan with the office and R&D areas located at the front of the building adjacent to the main entrance, with the laboratory, manufacturing, and storage facilities occupying the remainder of the building to the rear. Access to the site would consist of two new vehicular driveways off Kato Road (formerly the private frontage road serving the adjacent Tesla Motors plant) for employees and visitors, and a third driveway along the northern edge of the site running parallel to an Alameda County Flood Control District channel for truck traffic and emergency vehicle access. A total of 701 parking spaces would be provided on the site, as well as 70 bicycle parking stalls under a freestanding canopy structure. Decorative landscaping and landscaped-based stormwater treatment (bio-retention) areas would be provided throughout the parking areas and along the perimeter of the site.

The project would include the construction of new street improvements, including bicycle lanes, sidewalks and landscape planters along the length of the property's street frontage. The applicant would also be required to construct a 12-inch water main loop line to serve the project site by extending the existing public water main located within the Kato Road public right-of-way to the private segment of Kato Road fronting the property and connecting it to the existing main located across Interstate 880 within the Landing Parkway public right-of-way. The connection would run underneath the freeway and would require an encroachment permit from Caltrans. The exact location, alignment, and construction of this extension would also be subject to specifications and approval by the Alameda County Water District (ACWD) and the City's Public Works Department. No public roadway closures (including the freeway) are proposed as part of the project.

The applicant is proposing to grade the site to create a level surface for the building pad and the parking/circulation and delivery/service areas, and this would require total grading in the amount of 113,000 cubic yards of cut and 98,350 cubic yards of fill, or a total of 211,350 cubic yards of grading with a resulting 14,650 cubic yards of surplus soils. Pursuant to FMC Section 8-4108(a)(1), any project requiring grading in excess of 1,000 cubic yards requires approval of a Preliminary Grading Plan by the Planning Commission.

PROJECT ANALYSIS

General Plan Conformance

The existing General Plan land use designation for the project site is General Industrial. Lands designated General Industrial are intended to accommodate all types of heavy industry uses, including automobile and electronics manufacturing plants, construction contractor corporation yards, biotechnology R&D laboratories and warehouses. The following General Plan goals, policies and implementation measures are applicable to the proposed project:

Safety Goal 10-1: Geologic Hazards – *Minimize feasible risk to life and property resulting from land instability and other geologic hazards.*

Safety Policy 10-1.3: Limits on Grading – *Prohibit excessive and unnecessary grading activity, especially in areas of potential landslide risk as identified on State and local geologic hazard area maps or as identified during site reconnaissance.*

Safety Goal 10-3: Flood Hazards – *Minimum feasible risk to life and property resulting from flooding and flood-induced hazards.*

Safety Policy 10-3.1: Limit Construction in Floodplain – *Prohibit new buildings in the 100-year flood zone as determined by the Federal Emergency Management Agency (FEMA) and as shown on the FEMA Flood Insurance Rate Maps (FIRMs) unless significant mitigation can be provided or the area is removed from the flood zone.*

Safety Policy 10-3.2: Design to Minimize Flooding – *Design new development projects to minimize hazards associated with flooding and limit the amount of runoff that contributes to flooding.*

Conservation Goal 7.1: Biological Resources – *A thriving natural environment with protected habitat that enhances the biological value of the City and preserves the open space frame.*

Conservation Policy 7-1.2: Protection of Species – *Preserve and protect rare, threatened, endangered and candidate species and their habitats consistent with State and federal law.*

Conservation Policy 7-1.7: Mitigate Development Impacts – *Mitigate the impacts of development on the natural environment to the extent possible through sound planning, design, and management of development projects.*

Analysis: The project site is located within an area where impervious, man-made improvements such as buildings and paved parking lots could increase the potential for down-stream flooding during a 100-year storm event. For this reason, the project must be designed to temporarily store and meter stormwater runoff during 100-year storm events so as not to exacerbate existing flood hazards downstream from the property. In order to prevent flooding of the building during more severe storms, the applicant would also be required to raise the finished floor of the building an average of 6-7 feet above the existing grade. The property was also found to contain expansive soils by a geotechnical study which was conducted in May 2012 and peer reviewed by the City in November/December 2012. The study and peer review both recommended the use of lime treatment during grading of the building pad and parking areas to minimize the risk of geologic hazards caused by soil expansion. Implementation of these engineering measures would ensure the safety of the building and its occupants consistent with the goals and policies of the General Plan.

A biological survey was conducted for the property in November 2012 which found potential habitat for burrowing owls and various protected species of nesting birds on the site. Project-specific mitigation measures to prevent impacts to these biological resources have been prepared by a qualified wildlife biologist and are included as conditions of approval in Exhibit “C.”

Zoning Regulations

Land Uses:

The subject property is zoned General Industrial (G-I) and General Industrial/Flood Combining District G-I(F). The G-I and G-I(F) zoning districts permits new industrial manufacturing facilities of the type and intensity being proposed by the applicant by right, subject to compliance with basic industrial development standards. However, because the project would involve approximately 211,350 cubic yards of cut and fill, the applicant must obtain approval of a Preliminary Grading Plan from the Planning Commission.

Design Analysis

Grading and Drainage:

The project site generally drains westerly toward the existing street. The existing elevations range from 35 feet to 15 feet above mean sea level. An Alameda County Flood Control District facility, Line F (Zone 6), runs along the northern edge of the parcel. There is an existing outfall into this facility at the northwestern corner of the parcel where the project’s storm drain system would connect to in order to drain runoff from the site. The majority of the grading is necessary to provide a level pad for the proposed building. Due to the expansive clayey soils on-site, additional grading is proposed to treat the soils with lime. The project engineer estimates 113,000 cubic yards of cut and 98,350 cubic yards of fill

for a total project grading of 211,350 cubic yards. Final grading is subject to review and approval of the City Engineer prior to issuance of a grading or building permit.

Most of the drainage onsite would be conveyed to stormwater treatment areas before discharging into a storm drain system and eventually into the flood control facility. The proposed storm drainage system would be subject to the approval of the City Engineer and Alameda County Flood Control District.

Urban Runoff Clean Water Program:

The Municipal Regional Stormwater NPDES Permit (MRP) requires all new projects to incorporate measures to prevent pollutants from being conveyed in stormwater runoff and into the public storm drain system. This project is required to comply with the MRP by incorporating source controls and treatment measures into the project design. Since the project would discharge into a tidally-influenced flood control facility, the project is not required to provide mitigation for hydromodification.

The applicant intends to meet the qualitative stormwater treatment requirements by constructing bio-retention areas. The stormwater treatment design would be integrated into the storm drain design for the project and would be subject to review and approval by the City Engineer prior to building permit issuance.

Geologic Hazards:

The project site is within an area of potential earthquake-induced liquefaction on the official Seismic Hazard Zone maps, released by the State Geologist. In accordance with the State law, the project geotechnical engineer prepared a seismic hazard report which was reviewed and approved by the City's peer review consultant and filed with the State Geologist. The proposed improvements and building construction would conform to the recommendations of the seismic hazard report.

FEMA Flood Zone:

The northwestern most portion of the project site is located within the floodplain or a special flood hazard zone as defined by the Federal Emergency Management Agency (FEMA). In order to develop within the floodplain, all new structures must be built with the lowest floor above the base flood elevation. In this case, the base flood elevation is approximately 21 feet (NAVD88 datum) above mean sea level. The facility is proposed to have a finished floor elevated more than 21 feet (NAVD88) above mean sea level (27 feet is the proposed finished floor elevation). By raising the grade on-site, the applicant would be removing the structure from the floodplain.

FINDINGS FOR APPROVAL

Preliminary Grading Plan: Pursuant to FMC Section 8-4109, the following findings must be made in order to approve the proposed Preliminary Grading Plan:

- (a) The proposed project will not have an appearance, due to the grading, excavation or fill, substantially and negatively different from the existing natural appearance;

Analysis: In this particular case, the Preliminary Grading Plan has been designed to create level land for the proposed building pad, with gentle slopes throughout the parking lot and landscaped areas in order to direct runoff into the project's storm drain and stormwater treatment facilities. The finished floor

elevation resulting from the proposed grading would not appear noticeably different than the current conditions despite the quantity of soil being imported to the site. The sheer size of the building and site necessitate extensive grading to achieve the grades needed to elevate the structure out of the flood plain, and this is the main reason why the proposal involves such a large grading quantity.

- (b) The proposed project will not result in geologic or topographic instability on or near the site;

Analysis: All graded areas would be engineered with soils that would be treated with lime and compacted in accordance with the recommendations of the geotechnical report and peer review conducted for the project in May, November and December 2012, as well as the specifications of the Grading, Erosion and Sedimentation Chapter of the Municipal Code to provide a safe, stable environment for the proposed end uses of the site for an industrial manufacturing facility. As such, implementation of the project would not cause geologic instability which could result in a safety hazard to the facility's employees or visitors.

- (c) The proposed project will not endanger public sewers, storm drains, watercourses, streets, street improvements or other property; will not interfere with existing drainage courses; and will not result in debris being deposited in any public right-of-way;

Analysis: The applicant would be required to construct standard street improvements along the unfinished segment of Kato Road fronting the project site, including new curb, gutter and sidewalk. As part of the utility improvements, new stormwater collection and conveyance facilities and a new water main would be constructed to serve the property and connect to the existing flood control channel and public water mains serving the surrounding areas. The project would also connect to the existing sanitary sewer line in Kato Road. The applicant would be required to obtain permits from the Alameda County Water District, Alameda County Flood Control District, Union Sanitary District and other jurisdictional agencies to connect to these utilities, and the permitting for this work would ensure that they are not damaged or compromised during grading and construction activities.

In addition, the project would be designed so as not increase runoff volumes onto any adjacent properties or into the off-site flood control channel serving the property which could exacerbate existing flood hazard conditions downstream. Furthermore, the applicant would be required to implement erosion control measures during grading and construction to prevent sediments and/or debris from entering the on-site storm drain system or the flood control channel.

- (d) Conformity, where applicable, to special concerns relating to the adopted Safety Element of the General Plan and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology; supplemental data and substantiation of conclusions may be required by the Public Works Director upon city review of the reports; and

Analysis: According to the 2004 California State Geologic and Seismic Hazard Zones map, the project site is located in an area susceptible to earthquake-induced liquefaction. Furthermore, according to a geotechnical report prepared for the project in May 2012 and peer-reviewed by the City in November/December 2012, the property contains expansive soils. As such, all grading, foundations and structures must be engineered and designed in conformance with applicable geotechnical and soil stability standards of the California Building Code.

- (e) The proposed project will not unacceptably affect the health, safety or welfare of adjacent residents or landowners, nor the citizens of Fremont.

Analysis: Minor construction-related impacts to the neighboring industrial properties would occur during the proposed grading, such as noise, vibration, and exhaust fumes from earth-moving equipment. However, these impacts would be temporary and would cease once grading activities are completed. In addition, the final topography that would be established upon completion of the grading work would be geologically stable and suitable for the proposed end use of the site as an industrial manufacturing facility.

CITY FEES

This project would be subject to citywide Development Impact Fees for a new manufacturing facility, including fees for fire protection, capital facilities and traffic facilities. All applicable fees would be calculated and paid at the fee rates in effect at the time of building permit issuance. The applicant may elect to defer payment of the fees in accordance with the City's Impact Fee Deferral Program.

ENVIRONMENTAL REVIEW

An Initial Study was conducted which resulted in the preparation of a Draft Mitigated Negative Declaration for this project in accordance with the requirements of the California Environmental Quality Act (see Exhibit "A" and Informational Item #1). The Initial Study analyzed not only the potential impacts from the proposed grading plan, but also from the construction and operation of the proposed industrial facility. The study identified concerns regarding potentially significant impacts to air quality from construction-related dust and other airborne particles, water quality from erosion and sedimentation, and biological resources from disturbances caused by grading and construction activities. The Draft Mitigated Negative Declaration includes mitigation measures and a Mitigation Monitoring Program which, if implemented, would reduce the project's identified impacts to a less-than-significant level. These measures have been included as conditions of approval for the project.

PUBLIC NOTICE AND COMMENT

Public hearing notification is required for the requested entitlements. A total of 28 hearing notices were mailed to the owners and occupants of all property located within 300 feet of the project site on Thursday, December 27, 2012. A Public Hearing Notice was also published in *The Argus* on Wednesday, December 26, 2012.

ENCLOSURES:

Exhibits:

- Exhibit "A" [Draft Mitigated Negative Declaration and Mitigation Monitoring Program](#)
- Exhibit "B" [Preliminary Grading Plan](#)
- Exhibit "C" [Recommended Findings and Conditions of Approval](#)

Informational Items:

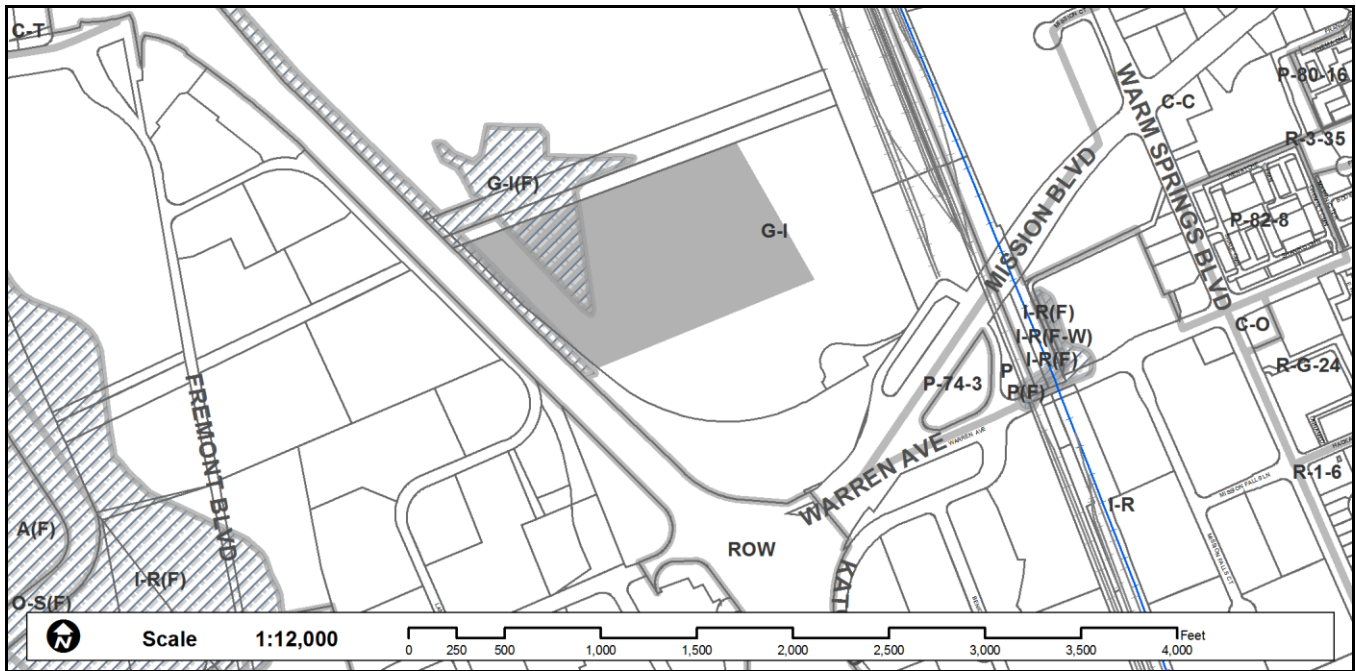
Informational 1 [Initial Study](#)

Informational 2 [Project Description & Justification Statement from Applicant](#)

RECOMMENDATION

1. Hold public hearing.
2. Adopt the Mitigated Negative Declaration and Mitigation Monitoring Program for the project, and find this action reflects the independent judgment of the City of Fremont.
3. Find that the project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the goals and policies set forth in the Conservation and Safety Elements of the General Plan as enumerated within the staff report.
4. Approve the Preliminary Grading Plan as shown on Exhibit "B," based on the findings and subject to the conditions set forth in Exhibit "C."

Current Zoning
(Shaded area represents the Project Site)



Current General Plan Land Use Designation
(Shaded area represents the Project Site)

